

Michael D. Rounds
Matthew D. Francis
SKINNER, WATSON & ROUNDS
548 California Avenue
Reno, Nevada 89509
(775) 324-4100

ORIGINAL

Attorneys for Plaintiffs
Reno Air Racing Association, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

CV-N-02-0474-HDM-RAM

RENO AIR RACING ASSOCIATION,) Case No.
INC., a Nevada non-profit)
corporation,)
Plaintiff,) COMPLAINT
v.)
JERRY McCORD, an individual,)
d/b/a WESTERN SALES,)
Defendant.)

Plaintiff Reno Air Racing Association, Inc. ("Reno Air Racing"), for its Complaint against Defendant Jerry McCord d/b/a Western Sales ("Defendant") alleges the following:

Jurisdiction and Venue

1. This is a federal and common law trademark action. Jurisdiction is based on federal question pursuant to 28 U.S.C. § 1338(a) and (b).

2. Venue is proper pursuant to 28 U.S.C. § 1391 and in the Reno Division of the District of Nevada.

The Parties

3. Reno Air Racing is a Nevada non-profit corporation with its principal place of business located in Reno, Nevada.

1 4. On information and belief, Defendant Jerry McCord is
2 an individual residing in Washoe County and doing business as
3 "Western Sales." Upon information and belief Defendant's
4 principal place of business is located in Reno, Nevada.

5 Facts

6 5. Since 1964, Reno Air Racing has organized, promoted
7 and operated the "National Championship Air Races" event at
8 the Reno/Stead airport just outside of Reno, Nevada. The
9 event is also commonly referred to as the "Reno Air Races"
10 (referred to herein as the "Reno Air Races").

11 6. The Reno Air Races event brings airplanes of almost
12 every vintage and make from all over the world, and the
13 airplanes participate in either air races or air shows, or are
14 displayed for viewing by spectators that attend the event.
15 The air races, in which six different classes of airplanes
16 race around pylons positioned within the vicinity of the
17 Reno/Stead Airport, are the only races of this kind in the
18 world.

19 7. The Reno Air Races event is advertised and promoted
20 through television, radio, magazines, newspapers, pamphlets,
21 brochures, billboards, posters and the Internet. Since the
22 inception of the event, Reno Air Racing has spent millions of
23 dollars advertising and promoting the Reno Air Races event.
24 Much of this advertising has specifically used the name "Reno
25 Air Races" to identify the event, and Reno Air Racing has
26 referred to the event as "Reno Air Races" in its
27 communications with the public and media.

28 8. As a result of the substantial advertising and the

1 world-wide recognition the Reno Air Races has generated over
2 the years, the event is attended by fans from all over the
3 world, as well as by local fans. The event has generated tens
4 of millions of dollars in revenue for Reno Air Racing and the
5 local economy since its inception.

6 9. Since the initial Reno Air Races event commenced in
7 September of 1964, and through the present date, Reno Air
8 Racing has used a unique logo featuring a checkered pylon with
9 two airplanes circling it ("pylon logo"). Through the years,
10 the logo has been featured in all forms of print and
11 electronic advertising, as well as merchandise such as
12 posters, t-shirts, golf shirts, denim shirts, jackets, hats,
13 sweat shirts, lapel pins, watches and vests.

14 10. Reno Air Racing has two (2) incontestable federal
15 registrations in four (4) classes for its pylon logo,
16 Registration Numbers, 1,322,146 and 1,371,797. The classes
17 that the pylon logo is registered in include entertainment
18 services, printed materials, cloth patches, caps and t-shirts.

19 11. As noted, in addition to referring to the event as
20 the "National Championship Air Races," Reno Air Racing has
21 continuously identified the event as the "Reno Air Races" from
22 its inception through the present. This derivative Mark has
23 been advertised in generally the same fashion as the parent
24 mark throughout the years. As a result of the advertising and
25 promotion that identify the event as the "Reno Air Races, the
26 media and public both commonly refer to the event as the "Reno
27 Air Races." The pylon logo and the "Reno Air Races" marks
28 will be referred to collectively as the "Marks."

1 12. Prior to the infringing use of the aforementioned
2 Marks by Defendant, Plaintiff's Marks became recognized and
3 relied upon by consumers as identifying the products and
4 services of Reno Air Racing and distinguishing these goods and
5 services from the goods and services of others. The Marks
6 thus represent the goodwill belonging exclusively to Reno Air
7 Racing.

8 13. On September 12, 2002, Reno Air Racing learned that
9 an individual by the name of Jerry McCord doing business as
10 "Western Sales" was selling t-shirts for the September 12-15,
11 2002 "Reno Air Races" event that contained the "Reno Air
12 Races" trademark and two airplanes circling pylons.

13 14. Defendant's unauthorized use of their infringing
14 Mark creates a likelihood of confusion, mistake and deception
15 as to the affiliation, connection, association, origin,
16 sponsorship or approval of its goods and services by or with
17 Reno Air Racing, all to Reno Air Racing's irreparable loss and
18 damage.

19 15. Upon information and belief, confusion of consumers
20 will likely occur as a result of the acts of Defendant
21 complained of herein unless Defendant is enjoined from
22 continuing said acts. Furthermore, Reno Air Racing will
23 suffer irreparable injury to its reputation and goodwill
24 unless Defendant is so enjoined.

25 16. Reno Air Racing has been damaged by Defendants'
26 willful misconduct in an amount according to proof.

27 ///

28 ///

CLAIM I

Lanham Act Violation

15 U.S.C. § 1114(a)

17. Reno Air Racing repeats, realleges and reiterates each and every paragraph set forth above as if fully set forth herein.

18. By the acts complained of herein, Defendant has used in connection with their business and products a reproduction, counterfeit, copy or colorable imitation of Reno Air Racing's pylon logo Mark in connection with the sale, offering for sale, distribution and advertising of its goods and services, and such use is likely to cause confusion, mistake and deception amongst the consuming public in violation of 15 U.S.C. § 1114(a).

19. Reno Air Racing has been damaged by Defendant's willful infringement in an amount according to proof.

Claim II

Lanham Act Violation

15 U.S.C. § 1125(a)

20. Reno Air Racing repeats, realleges and reiterates each and every paragraph set forth above as if fully set forth herein.

21. Defendant's use of its infringing "Reno Air Races" mark constitutes a false designation of origin, description or representation, which is likely to cause confusion, mistake or to deceive as to origin, affiliation, connection, sponsorship or association of Defendant with Reno Air Racing, or as to the origin, sponsorship or approval of Defendant's goods and

1 services by Reno Air Racing, in violation of 15 U.S.C. §
2 1125(a).

3 22. Reno Air Racing has been damaged by Defendant's
4 willful infringement in an amount according to proof.

5 **PRAYER FOR RELIEF**

6 Reno Air Racing respectfully requests this Court for the
7 following relief:

8 1. Reno Air Racing be awarded its damages and
9 Defendant's profits attributable to Defendant's infringement
10 of the Mark pursuant to 15 U.S.C. § 1117(a);

11 2. Reno Air Racing be awarded three times the profits
12 attributable to Defendant's infringement of the Mark pursuant
13 to 15 U.S.C. § 1117(a);

14 3. Reno Air Racing be awarded its reasonable attorney's
15 fees and costs of suit pursuant to 15 U.S.C. § 1117(a);

16 4. An accounting be undertaken to determine the amount
17 of a constructive trust to be established for the benefit of
18 Reno Air Racing, reflecting the value of Defendant's unjust
19 enrichment gained through its acts complained of herein;

20 5. Reno Air Racing be awarded prejudgment interest on
21 any monetary award;

22 6. An injunction be issued against Defendant's and
23 their servants, agents, employees, successors and assigns, and
24 all persons acting in concert or privity with them, enjoining
25 each of them, singly and collectively, from: (a) any further
26 infringing use of the Marks, or any mark confusingly similar
27 thereto; (b) further holding itself out to the public as being
28 affiliated with or sponsored by Reno Air Racing in any manner,

1 or committing any acts likely to imply any such relationship
2 or affiliation; and (c) requiring Defendant to deliver to Reno
3 Air Racing for destruction all material in Defendant's
4 possession or control bearing the infringing mark or any other
5 designations confusingly similar thereto; and

6 7. Such other and further relief as this Court deems
7 just and proper.

8 DATED this 13th day of September, 2002.

9
10 SKINNER, WATSON & ROUNDS

11 By: Michael D. Rounds
12 Michael D. Rounds
13 Matthew D. Francis
14 548 California Avenue
15 Reno, Nevada 89509
16 (702) 324-4100

17 Attorneys for Plaintiffs
18 Reno Air Racing Association,
19 Inc.
20
21
22
23
24
25
26
27
28

United States District Court

COPY

DISTRICT OF NEVADA

RENO AIR RACING ASSOCIATION, INC.,
a Nevada non-profit corporation,

Plaintiff,

v.

JERRY McCORD, an individual d/b/a
WESTERN SALES

Defendant.

SUMMONS IN A CIVIL ACTION

CASE NUMBER:

CV-N-02-0474-HDM-RAM

TO: (Name and Address of Defendant)

Jerry McCord
d/b/a Western Sales
646 Eureka Avenue
Reno, NV 89512

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

Michael D. Rounds
Skinner, Watson & Rounds
548 California Avenue
Reno, NV 89509

an answer to the complaint which is herewith served upon you, within Twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

LANCE S. WILSON, CLERK

CLERK

LISA MANN

BY DEPUTY CLERK

SEP 13 2002

DATE

NO#